IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3017 OF 2005

Shri Ganpatrao Raoji Patil ..Petitioner.

Versus

The Dy. Charity Commissioner & Ors. ..Respondents.

Mrs.Prabhu h/for N.V.Bandiwadekar for the Petitioner.

Mr. D.A.Patil, AGP, for Respondent No.1.

CORAM : S. A. BOBDE, J.

DATED : 04TH OCTOBER,2005.

P.C.:

1. Rule returnable forthwith. Mr. Patil, AGP, waives service of rule for respondent No.1. Heard by consent.

2. The petitioner has challenged the order of the Dy. Charity Commissioner, Kolhapur Region, Kolhapur dated 31.01.2005 by which the learned Charity Commissioner has directed the deletion of certain portion in the affidavit of evidence of the petitioner in paragraph 2 at Exh. 61 on the ground that it is

irrelevant to the disputed change report. Undoubtedly, the Charity Commissioner has done so on the ground that the portion ordered to be deleted does not have any foundation in the pleadings. If that be so, then I am of view that the Charity Commissioner should have been entitled to ignore that part of the evidence which according to him does not have any foundation in the pleadings.

3. It must be noted that the courts undoubtedly have powers to strike out pleadings in certain cases but similar powers are not available in respect of affidavits which are evidence and not pleadings.

4. In the circumstances, the rule is made absolute in terms of prayer clause (b).

DT.04.10.05 (S.A.BOBDE,J)

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